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9 **MONIQUE QUILLEN**

**FILED**  
2013 MAR 14 A 10:09  
RICHARD W. FLECKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

*[Handwritten signature]*  
1/1/13

7 **UNITED STATES DISTRICT COURT**  
8 **NORTHERN DISTRICT OF CALIFORNIA**

**LB**

10 **MONIQUE QUILLEN,**  
11 **Plaintiff,**

12 **vs.**

13 **PORTFOLIO RECOVERY**  
14 **ASSOCIATES, LLC; and DOES 1 to**  
15 **10, inclusive,**  
16 **Defendants.**

Case No.: **13 1146**

**COMPLAINT AND DEMAND FOR**  
**JURY TRIAL**

**(Unlawful Debt Collection Practices)**

**Demand Does Not Exceed \$10,000**

*[Large handwritten signature]*

17 **COMPLAINT**

18 **INTRODUCTION**

19  
20 1. Plaintiff, MONIQUE QUILLEN brings this action to secure redress  
21 from unlawful credit and collection practices engaged in by Defendant  
22 PORTFOLIO RECOVERY ASSOCIATES, LLC (hereinafter also referred to as  
23 "PORTFOLIO" or "Defendant"). Plaintiff alleges violations of the Fair Debt  
24 Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA").  
25

**VENUE AND JURISDICTION**

2. This Court has jurisdiction under 15 U.S.C. §1692k (FDCPA) and 28 U.S.C. §§1331, 1337 and 1367.

3. Venue and personal jurisdiction in this District are proper because:

a. Defendant's collection communications were received by Plaintiff within this District;

b. Defendant does or transacts business within this District.

**PARTIES**

4. Plaintiff MONIQUE QUILLEN is an adult individual who resides in Clearlake, Lake County, California and is a "consumer" as defined by the FDCPA, 15 U.S.C. § 1692a(3).

5. On information and belief, Defendant PORTFOLIO maintains its principal place of business at 120 Corporate Boulevard, Norfolk, Virginia 23502, and does business throughout the country, including in California in this district.

6. At all relevant times herein, Defendant PORTFOLIO is a company engaged, by use of the mails and telephone, in the business of collecting a debt from Plaintiff which qualifies as a "debt," as defined by 15 U.S.C. §1692a(5). Defendant regularly attempts to collect debts alleged to be due another, and therefore is a "debt collector" as defined by the FDCPA, 15 U.S.C. §1692a(6).

**FACTS**

7. Defendant is attempting to collect from Plaintiff an alleged debt incurred for personal, family or household purposes and not for business purposes.

8. Within the last year, Defendant constantly and continuously called Plaintiff from telephone numbers 847-994-2557, 757-275-8578, 847-994-2555, and 847-994-2553 with the intent to annoy and harass her into paying an alleged debt, and does succeed in annoying and harassing her.

9. Defendant failed to identify itself as a debt collector in subsequent communications by telephone.

10. Defendant calls and fails to leave any affirmative messages on Plaintiff's voicemail, and therefore fails to meaningfully disclose its identity to Plaintiff.

11. Defendant engaged in false and deceptive means in attempting to collect a debt by failing to identify itself as a debt collector in subsequent communications.

**COUNT I – FDCPA**

12. Plaintiff incorporates paragraphs 1 - 11.

13. Defendant thereby violated the following provisions of the FDCPA:

i) 15 U.S.C. §1692d(5);

ii) 15 U.S.C. §1692d(6);

1           iii) 15 U.S.C. §1692e(10);

2           vi) 15 U.S.C. §1692e(11);

3       14. Sections 1692d(5) and d(6) state in pertinent part that:

4       **A debt collector may not engage in any conduct the natural consequence**  
5       **of which is to harass, oppress, or abuse any person in connection with**  
6       **the collection of a debt. Without limiting the general application of the**  
7       **foregoing, the following conduct is a violation of this section:**

8       ...

9       **(5) Causing a telephone to ring or engaging any person in telephone**  
10       **conversation repeatedly or continuously with intent to annoy, abuse, or**  
11       **harass any person at the called number.**

12       ...

13       **(6) Except as provided in section 1692b of this title, the placement of**  
14       **telephone calls without meaningful disclosure of the caller's identity**

15       15. Sections 1692 e(10) and e(11) state in pertinent part that:

16       **A debt collector may not use any false, deceptive, or misleading**  
17       **representation or means in connection with the collection of any debt.**  
18       **Without limiting the general application of the foregoing, the following**  
19       **conduct is a violation of this section:**

20       ...

21       **(10) The use of any false representation or deceptive means to collect or**  
22       **attempt to collect any debt or to obtain information concerning a**  
23       **consumer.**

24       **(11) The failure to disclose in the initial written communication with the**  
25       **consumer and, in addition, if the initial communication with the**  
26       **consumer is oral, in that initial oral communication, that the debt**  
27       **collector is attempting to collect a debt and that any information**  
28       **obtained will be used for that purpose, and the failure to disclose in**  
29       **subsequent communications that the communication is from a debt**  
30       **collector, except that this paragraph shall not apply to a formal**  
31       **pleading made in connection with a legal action.**

## COUNT II – RFDCPA

16. Plaintiff incorporates paragraphs 1 - 15.

17. Defendant thereby violated the following provisions of the RFDCPA:

- i) Cal. Civ. Code § 1788.11(b);
- ii) Cal. Civ. Code § 1788.11(d);
- iii) Cal. Civ. Code § 1788.11(e); and
- iv) Cal. Civ. Code § 1788.17.

18. Sections 1788.11 (b), (d) and (e) state in pertinent part that:

**1788.11. No debt collector shall collect or attempt to collect a consumer debt by means of the following practices:**

...

**(b) Placing telephone calls without disclosure of the caller's identity, provided that an employee of a licensed collection agency may identify himself by using his registered alias name as long as he correctly identifies the agency he represents;**

...

**(d) Causing a telephone to ring repeatedly or continuously to annoy the person called; or**

...

**(e) Communicating, by telephone or in person, with the debtor with such frequency as to be unreasonable and to constitute an harassment to the debtor under the circumstances.**

19. Sections 1788.17 states in pertinent part as follows:

**1788.17. Notwithstanding any other provision of this title, every debt collector collecting or attempting to collect a consumer debt shall comply with the provisions of Sections 1692b to 1692j, inclusive, of, and shall be subject to the remedies in Section 1692k of, Title 15 of the United States Code. However, subsection (11) of Section 1692e and Section 1692g shall not apply to any person specified in paragraphs (A) and (B) of subsection (6) of Section 1692a of Title 15 of the United States Code or that person's principal. The references to federal codes in this section refer to those codes as they read January 1, 2001.**

**PRAYER FOR RELIEF**

WHEREFORE, the Court should enter judgment in favor of Plaintiff and against Defendant for:

- (1) Statutory and actual damages;
- (2) Attorney's fees, litigation expenses and costs of suit;
- (3) Such other and further relief as the Court deems proper.

RESPECTFULLY SUBMITTED,

DATED: March 8, 2013

**PRICE LAW GROUP APC**

By: 

G. Thomas Martin, III  
Attorney for Plaintiff

**DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that Plaintiff, MONIQUE QUILLEN demands trial by jury in this action.

JS 44 (Rev. 12/12) and rev (1/15/13)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

MONIQUE QUILLEN

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

LAKE

(c) Attorneys (Firm Name, Address, and Telephone Number)

B. THOMAS MARTIN III #218456  
PRICE LAW GROUP, APC

15760 VENTURA BLVD, #1100 ENGLEWOOD, CA 91436

## DEFENDANTS

PORTFOLIO RECOVERY ASSOCIATES,  
LLC AND DOES 1 TO 10, INCLUSIVE

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395m) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 USC 1692

Brief description of cause:

UNLAWFUL DEBT COLLECTION PRACTICES

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

ACCORDING TO PROOF

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

## IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)

(Place an "X" in One Box Only)



SAN FRANCISCO/OAKLAND



SAN JOSE



EUREKA